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Attorney for Nominal Defendants JDS
Uniphase Corporation and Individual
Defendants Jozef Straus, Don Scifres,
Martin A. Kaplan, Bruce D. Day,
Robert E. Enos, Peter A. Guglielmi,
John A. MacNaughton, Wilson Sibbett,
Anthony R. Muller, M. Zita Cobb,
Joseph Ip, Charles J. Abbe, Frederick L
Leonberger, Michael C. Phillips, and
Harry Deffebach

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ROBERT CORWIN, Derivatively On Behalf of
JDS UNIPHASE CORPORATION,

Plaintiffs,

v.

MARTIN A. KAPLAN, et al.,

Defendants.

and

JDS UNIPHASE CORPORATION, a Delaware
corporation,

Nominal Defendant.

Case No. C-02-2020 CW

**STIPULATION AND ORDER RE
AMENDMENT OF COMPLAINT
AND SCHEDULING AS
MODIFIED**

WHEREAS, Defendants moved to dismiss the First Amended Complaint;

WHEREAS, on January 6, 2005, the Court issued an order, *inter alia*:

- a. stating that the “material facts in this action are the same” as those in the related securities class action captioned *In re JDS Uniphase Securities Litigation* (the “Main Securities Class Action”);
- b. stating that “[b]ecause the Court has denied the defendants’ motion to dismiss in that case, it would not be in the interest of justice for the Court to grant Defendants’ motion to dismiss here, even though Plaintiff’s current complaint is still not adequately plead[ed]”; and
- c. staying this action pending resolution of the Main Securities Class Action;

WHEREAS, on January 19, 2005, the Court issued a separate order denying Defendants’ motion to dismiss the First Amended Complaint without prejudice;

WHEREAS, on November 27, 2007, the jury rendered a verdict for the defendants on all claims in the Main Securities Class Action;

WHEREAS, on December 4, 2007, the Court in this action entered a Minute Order providing that if this action is not dismissed, the Court will set a date for the defendants to file a renewed motion to dismiss;

WHEREAS, the plaintiff in this action desires to amend his complaint again;

WHEREAS, the parties believe that it will conserve the resources of the Court and the parties and promote efficiency to allow amendment; and

WHEREAS, the parties agree that all discovery and all deadlines apart from those listed below shall remain stayed until such time, if any, that the Court determines that the plaintiff has satisfied the applicable pleading standards.

IT IS HEREBY STIPULATED by and among the parties in this action, pursuant to Fed. R. Civ. P. 15(a) and through their counsel of record, that:

1. Plaintiff agrees to dismiss the First Amended Complaint without prejudice, effective upon the filing of a Second Amended Complaint;
2. Plaintiff will file a Second Amended Complaint on or before May 9, 2008;

3. Upon the filing of a Second Amended Complaint, the First Amended Complaint shall be deemed dismissed without prejudice;
4. The defendants will move to dismiss or otherwise respond to the Second Amended Complaint on or before June 20, 2008;
5. If the defendants move to dismiss the Second Amended Complaint, the plaintiff shall have until August 1, 2008, to oppose that motion;
6. If the plaintiff opposes the defendants' motion to dismiss, the defendants shall have until August 22, 2008, to file a reply;
7. The hearing on the defendants' motion to dismiss (if any) shall occur on September 4, 2008, or such other time thereafter that is set by the Court; and
8. All discovery and all case deadlines apart from those listed above shall remain stayed until such time, if any, that the Court determines that the plaintiff has satisfied the applicable pleading standards.

Dated: April 22, 2008

JORDAN ETH
TERRI GARLAND
PHILIP T. BESIROF
RAYMOND M. HASU
MORRISON & FOERSTER LLP

By: /s/ Terri Garland
Terri Garland

Attorneys for Nominal Defendant JDS Uniphase Corporation and Individual Defendants Jozef Straus, Don Scifres, Martin A. Kaplan, Bruce D. Day, Robert E. Enos, Peter A. Guglielmi, John A. MacNaughton, Wilson Sibbett, Anthony R. Muller, M. Zita Cobb, Joseph Ip, Charles J. Abbe, Frederick L. Leonberger, Michael C. Phillips, and Harry Deffebach

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GARWIN GERSTEIN & FISHER LLP


By: /s/ Richard B. Brualdi
Richard B. Brualdi

Attorneys for Plaintiffs

* * *

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The Case Management
Conference remains on calendar May 6, 2008, at 2:00 p.m. with related cases.



HONORABLE CLAUDIA WILKEN
United States District Judge

1 I, Raymond M. Hasu, am the ECF User whose ID and password are being used to file this
2 Stipulation and [Proposed] Order re Amendment of Complaint and Scheduling. In compliance
3 with General Order 45, X.B., I hereby attest that Terri Garland, attorney for Defendants, and
4 Richard B. Brualdi, attorney for Plaintiffs, have concurred in this filing.

5 Dated: April 22, 2008

MORRISON & FOERSTER LLP

7 By: /s/ Raymond M. Hasu
8 Raymond M. Hasu

9 Attorney for Defendants